FOURTH CALLED SESSION

By _____ H.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to validation of the creation of the Uvalde County Underground Water Conservation District and actions of the district and to powers of the district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITION. In this Act, "district" means the Uvalde County Underground Water Conservation District.

SECTION 2. VALIDATION. The creation of the district and all resolutions, orders, and other acts or attempted acts of the board of directors of the district are validated in all respects. The creation of the district and all resolutions, orders, and other acts or attempted acts of the board of directors of the district are valid as though they originally had been legally authorized or accomplished.

SECTION 3. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas

Water Commission.

SECTION 4. ADDITIONAL AUTHORITY. (a) The district may institute and defend suits and proceedings before any court or any administrative body or agency, state or federal, in carrying out the purposes, powers, and duties of the district.

(b) The district may contract with and participate in joint efforts and projects with a water district, conservation district, county, municipality, state or federal governmental agency, individual, or private corporation for the purpose of conserving, protecting, recharging, or benefiting underground water-bearing formations within the district and water in the district. The district may use, dedicate, and pledge taxes and revenues of the district and use the proceeds from district bonds for those purposes whether the district or some other municipal or governmental agency or department is in charge of the work or development.

(c) The district may require that copies of water well drillers' logs required to be kept and furnished to the Texas Water Commission or its successor by Chapter 32, Water Code, be furnished in writing to the district, by certified mail, by the owner or the person having the well drilled. Information furnished under this subsection is not subject to public disclosure.

(d) The district may report to the Texas Water Commission or its successor violations of Chapter 32, Water Code, and rules adopted under that chapter.

(e) The district may require an open or uncovered well to be closed or capped in accordance with Section 52.171, Water Code,

1 except the district shall give the owner or lessee 30 days to close
2 or cap a well, and expenses incurred by the district in closing,
3 plugging, or capping a well, not to exceed $100, shall constitute a
4 lien on the land on which the well is located.
5 (f) The district may develop rules for the registration of
6 all water wells within the boundaries of the district. The
7 registration information shall be limited to location, size, depth,
8 amount of casing in the well, and principal use of water from the
9 well.
10 (g) The district may develop a drought contingency plan to
11 be activated during times of extreme drought and deactivated on
12 return of normal water levels as monitored in an index well
13 designated in the plan. The water levels to activate or deactivate
14 the drought contingency plan shall be predetermined and become a
15 part of the plan. The plan may be enforced by injunction in a
16 court of competent jurisdiction after adoption of the plan by the
17 board of directors by a two-thirds vote of the board.
18 (h) No underground water may be pumped from wells within the
19 district and exported outside the district boundaries by pipeline
20 except by permit granted by the district and a fee of 25 cents per
21 1,000 gallons of water pumped and exported by pipeline paid to the
22 district on a continuing basis before the 61st day after the date
23 of exportation. The exportation fee may be changed by unanimous
24 consent of the board of directors. A permit and fee are not
25 required if the property outside the district on which the
26 underground water is used or consumed is contiguous to and owned by
27 the owner of the real property from which the water is pumped.

(i) The board may not levy and collect a maintenance and operating expense tax that exceeds two cents on each $100 of assessed valuation of property in the district unless an election is held within the district at which a majority of the qualified voters who vote approve a proposition authorizing a greater rate of assessment.

(j) The ownership and rights of the owner of the land, or the owner's lessees and assigns, in underground water are recognized, and nothing in this Act deprives or divests the owner or the owner's lessees or assigns of that ownership or those rights. This Act is not a grant of any rights of superior existing permits or water rights.

SECTION 5. PENDING LITIGATION. Section 2 of this Act does not apply to or affect litigation pending on the effective date of this Act in any court of competent jurisdiction in this state to which the district is a party.

SECTION 6. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

THE STATE OF TEXAS
COUNTY OF UVALDE

Before me, the undersigned authority, on this day personally appeared Craig Garnett known to me, who being duly sworn, on his oath deposes and says, that he is the Publisher of the Uvalde Leader-News, a newspaper of general circulation, which has been continuously and regularly published for a period of not less than one year in said County; that a copy of the within and foregoing notice was published in said newspaper ~~for at least ten days before the return day named therein~~, such publication being on the following dates:

October 18, A. D. 19 92

and a newspaper copy of which is hereto attached.

Craig Garnett

Publisher of the Uvalde Leader-News

Sworn to and subscribed before me, this 11th day of November A. D., 19 92.

CAROLYN ALSBAUGH
Notary Public State of Texas
My Commission Expires June 30, 1996

Carolyn Alsbaugh
Notary Public in and for Uvalde Co., Texas

NOTICE

This is to give notice of intent to introduce in the 72nd Legislature Fourth called session a bill to be entitled an Act relating to the creation of the Uvalde County Underground Water Conservation District or a bill entitled an act relating to the validation of the Uvalde County Underground Water Conservation District.

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable Ann W. Richards
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District **FOURTH CALLED SESSION**

This is to transmit to you and the Texas Water Commission copies of House Bill No. 18, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

NOV 19 1992

Date transmitted to
Governor's Office

Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. _____, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

Date transmitted to
Texas Water Commission

Ann W. Richards
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable Bob Bullock
President of the Senate

The Honorable Ann W. Richards
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.

Jesus Garza
Executive Director

John Hall, Chairman
Pam Reed, Commissioner
Peggy Garner, Commissioner

TEXAS WATER COMMISSION

PROTECTING TEXANS' HEALTH AND SAFETY BY PREVENTING AND REDUCING POLLUTION

December 8, 1992

The Honorable Gib Lewis
Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4, Section 37.

H.B. 18 by Hilderbran, Fourth Called Special Session

Relating to validation of the creation of the Uvalde County Underground Water Conservation District and actions of the district and to powers of the district.

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Respectfully yours,

Jesús Garza
Executive Director

Enclosures

cc: Representative Lewis, Chairman,
House Natural Resources Committee
Representative Hilderbran

P.O. Box 13087 • 1700 North Congress Avenue • Austin, Texas 78711-3087 • 512/463-7830

PRINTED ON RECYCLED PAPER

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE UVALDE COUNTY UNDERGROUND WATER CONSERVATION DISTRICTS

Water Development Policy Impact Statement for House Bill 18 (4H.B. 18) Fourth Called Special Session, 72nd Legislature, relating to the validation of the creation of and the actions and powers of the Uvalde County Underground Water Conservation District Water Code follows.

Wells located within the confines of the proposed district, which encompass all of Uvalde County, obtain their water principally from the Edwards aquifer. There appears to be no hydrogeologic justification for the determination of the boundaries of the district.

4H.B. 18 provides that the proposed district would have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Specific impact statements related to required headings follow.

1) **Population projections** - The boundaries of the proposed district are coextensive with the boundaries of Uvalde County. The 1990 Census Count for Uvalde County was 23,340 residents. The Board anticipates the population of Uvalde County to increase over the next twenty years ranging from 30,027 to 31,662 residents by the year 2010.

2) **District finances** - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate for maintenance of the district is limited by 4H.B. 18 to not exceed 2 cents on each $100 of assessed valuation, unless a proposition authorizing a greater rate is approved by the voters of the district. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

4H.B. 18 authorizes the district to levy a fee of 25 cents per 1000 gallons of water exported out of the district by pipeline.

3) **Board of directors & powers -** The Commission is unable to comment on the composition, organization, or the election procedures of the board of directors of the Uvalde County District. The Commission has no information and is not aware of any information describing the district's board of directors that would allow evaluation under this heading.

The proposed district will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59 of the Texas Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of percolating underground water. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

4) **Effect on Texas Water Development Board's water plan -** The major water use category supplied from ground-water resources within the County and the proposed district is agricultural irrigation which currently accounts for approximately 95 percent of all water use within the proposed district. The Board finds that the purpose of the district agrees with the Board's State Water Plan objective of promoting the efficient use of local ground-water resources and the development and implementation of programs to effectively manage local ground-water resources, if effective management programs are implemented.

However, it should be noted that the primary source of water for the proposed district is the Edwards aquifer which extends approximately 180 miles from Kinney County eastwardly through Uvalde, Medina, Bexar, Comal, and Hays Counties. Prudent management of the water supplies of the entire aquifer is essential to maintaining springflow at Comal and San Marcos Springs which are habitat to a number of species currently listed as endangered species. The establishment of underground water

conservation district(s) in this area, along with specified authorities of such district(s), should recognize and address the need to effectively manage the regional water resources of the entire aquifer through cooperative planning, management, and protection of the aquifer. It should also be noted that management of the regional water supplies of the Edwards aquifer for maintaining sufficient springflows in order to protect endangered species at Comal and San Marcos Springs is currently in litigation.

5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. The districts are also subject to applicable general reporting provision requirements for all districts as set out in Sections 50.101 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

   The district shall make available to the Commission information that it acquires concerning underground water resources within its jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

   Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

6) **Eminent domain power** - The power of eminent domain is authorized for the district as provided under general law for underground water conservation districts. The district's use of this power is restricted to property within its boundaries.

7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the proposed district.

8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Uvalde County, therefore, the boundary description is adequate in terms of closure. There are no existing districts within Uvalde County. Uvalde County is within the boundaries of the Nueces River Authority. There are no apparent conflicts between the boundaries of the proposed district and other existing entities. It appears that none of the territory in the proposed district is a part of the University Lands, belonging to the University of Texas System.

9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, with the powers that are given in Chapters 50 and 52, Texas Water Code, related to these districts. In terms of powers and duties, this district will not differ significantly from similar types of districts. The bill does, however, contain a section authorizing additional authorities.

Section 4 of the bill authorizes a number of specific powers that are already available to the district under Chapter 52, Water Code. Two other specific powers are authorized by Section 4 of the bill. The district may contract with and participate in joint efforts and projects with other entities for the district's purposes and may use or dedicate district revenues and the proceeds from district bonds for those purposes whether the district or some other governmental agency is in charge of the project. The bill requires that the district authorize by permit the exportation by pipeline of water from the district and collect a fee of 25 cents per 1000 gallons of water exported. Water use on land contiguous to the district and owned by a landowner in the district is exempted. In addition, Section 4 of the bill specifies that the board may not levy a maintenance tax that exceeds two cents on each $100 of assessed valuation of property in the district unless the voters approve a proposition authorizing a greater rate of assessment.

The Texas Water Commission offers the following comments related to this bill.

The Commission has no information regarding the resolutions, orders, other acts or attempted acts of the board of directors of the district;

and therefore cannot comment upon their impacts on state water development policy.

The Commission also notes that the issue of whether this aquifer constitutes percolating ground water subject to regulation by a district under Chapter 52 of the Water Code or whether it is an underground stream and, thus, state water subject tc Commission regulation is pending in the state courts.

FOURTH CALLED SESSION

H. B. No. 18

By [illegible]

A BILL TO BE ENTITLED

AN ACT

relating to validation of the creation of the Uvalde County Underground Water Conservation District and actions of the district and to powers of the district.

NOV 19 1992 1. Filed with the Chief Clerk.

NOV 20 1992 2. Read first time and Referred to Committee on Natural Resources

_____ 3. Reported ___ favorably (as amended) (as substituted) and sent to Printer at _____

_____ 4. Printed and distributed at _____

_____ 5. Sent to Committee on Calendars at _____

_____ 6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

_____ 9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 10. Caption ordered amended to conform to body of bill.

_____ 11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 12. Ordered Engrossed at _____

_____ 13. Engrossed.

_____ 14. Returned to Chief Clerk at _____

_____ 15. Sent to Senate.

_____
Chief Clerk of the House

_____ 16. Received from the House

_____ 17. Read, referred to Committee on _____

_____ 18. Reported favorably

_____ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

_____ 20. Ordered not printed.

_____ 21. Regular order of business suspended by (a viva voce vote.) (_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

_____
Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments.) (as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____

81